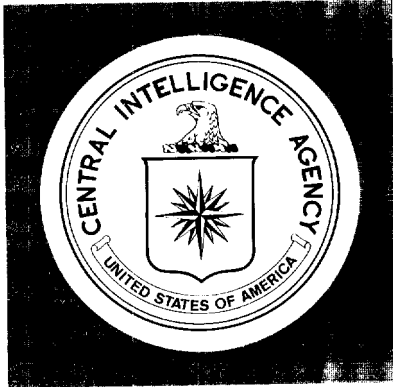


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Law of the Sea Country Study

Denmark

Secret
GCR LOS 75-3
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FOREWORD

The Law of the Sea Country Studies are prepared to support the NSC Interagency Task Force on the Law of the Sea. The countries to be included in the series are selected on the basis of priorities suggested by the chairman of the Task Force.

Each study has two parts. Part I is an analysis of the primary geographic, economic, and political factors that might influence the country's law of the sea policy, the public and private expressions of that policy, [REDACTED] involved. Part II provides basic data and information bearing on law of the sea matters.

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This study was prepared by the Office of Geographic and Cartographic Research. [REDACTED] was provided by the Central Reference Service. The study was coordinated within the Directorate of Intelligence and with the Department of State. Comments and questions may be directed to the LOS Country Studies Working Group, Code 143, Extension 2257.

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UN LOS draft articles submitted by Denmark
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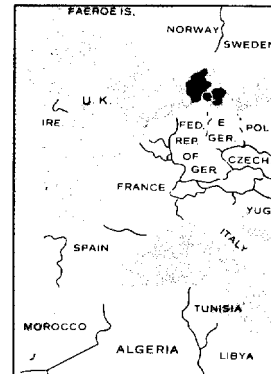
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DENMARK

Part I - Law of the Sea Analysis

A. SUMMARY

Denmark is a somewhat reluctant participant in the United Nations Conference on the Law of the Sea. It feels that most, if not all, of its marine activities are already sanctioned by existing agreements and treaties, or by customary international law. The Danes feel that new Law of the Sea (LOS) rules ought to be based on the existing Geneva Conventions. These conventions, they state, represent a generally accepted balance of differing interests and do not need revision. Copenhagen did not see a cogent reason for considering all the LOS issues at one conference. It would have preferred to limit the issues on the agenda of one or more conferences in such a manner that there would have been a reasonable prospect of a successful outcome.



Denmark will accept a 12-mile* limit as the maximum breadth of the territorial sea, but will remain adamant in its demand that the Danish Straits and other passages less than 6 miles in width be exempted from a regime of unimpeded transit through international straits. They will accept unimpeded transit through 6- to 24-mile-wide international straits, however.

The Danes will support a 200-mile economic zone only on the condition that it is structured to permit the continuation of traditional distant-water fisheries. They also hope to be able to reserve coastal fisheries for the geographically isolated populations of the Faeroe Islands and Greenland. Denmark favors freedom of navigation and maximum mobility of merchant and naval vessels in all waters beyond the territorial sea.

* Distances and areas throughout this study are in nautical miles unless specified otherwise.

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Copenhagen prefers a mixed system for mining the minerals on the deep seabed; an arrangement whereby both private firms and the International Seabed Authority (ISA) would compete for exploitation contracts.

The Danes believe that international standards should be adopted as the norm for controlling marine pollution and they remain generally opposed to the establishment of unilateral standards. They feel that scientific research in the seas should be encouraged and that undue controls should not be imposed by the coastal states.

Denmark will resume its defensive posture at Geneva in 1975, hoping to avoid any erosion of its sovereign authority over the Danish Straits and any diminution of its present fishing rights.

B. FACTORS INFLUENCING LOS POLICY

Special Geographic Features

Denmark and its two outlying possessions in the North Atlantic are geographically dissimilar. South, or mainland, Denmark is a small shelf-locked country whose islands constitute a limited archipelago. The straits that separate the islands are the sole natural passages that connect the North and Baltic Seas. The Faeroe Islands, however, will be entitled to an extensive seabed area in the Norwegian Sea and North Atlantic. Greenland has the fourth longest coastline in the world, a considerable portion of which borders upon the open sea. The possession of Greenland qualifies Denmark as one of only five nations to hold jurisdiction over lands that border the Arctic Ocean. Denmark has reached bilateral agreements with Norway, the United Kingdom, and West Germany regarding the delimitation of the continental shelf in the Skagerrak and North Sea and has attained an accord with Canada on the delimitation of the shelf boundary between Greenland and Canada. No agreements have yet been signed with Sweden, West Germany, East Germany, and Poland on delimiting the shelf of the Baltic Sea.

Uses of the Sea

Mineral Resources -- Denmark relies heavily on the import of fossil fuels to meet its energy requirements. The Dansk Undergrunds Consortium (DUC), comprised of A. P. Moeller, Gulf, Shell, Standard Oil of California, and Texaco, holds exclusive rights for offshore as well as onshore exploration and exploitation of hydrocarbons in South Denmark. The completion of 24 development wells in the North Sea's Dan Field by the end of

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1975 will raise Denmark's oil production to an annual rate of approximately 1,250,000 metric tons, less than 10% of the country's needs. No prospecting for oil or gas has been accomplished in the Faeroe Islands or on the nearby continental shelf. Reports that the Shell Company has recently located a major oil deposit between the Shetland and Faeroe Island groups have aroused Faeroese interest in investigating the surrounding seabed. The 840,000 square statute mile territory of Greenland has drawn exploratory interests for several years, with particular emphasis on the shelf of Baffin Bay and Davis Strait.

Living Resources -- Denmark is the fourth largest fishing nation in Europe (including the U.S.S.R.). The South Danish fishing industry is largely sustained by small vessels operated by family enterprises in the North Sea, the Kattegat, and Skagerrak. Particular features of the industry are the high quality of the catches and the short distances from points of landing not only to local markets but also to major fish consumption areas of Europe. These factors allied to the flexibility and relatively low cost operations of the fleet combine to make the Danish fishing industry very competitive and efficient.

In addition to making a valuable contribution to domestic supplies of food, the South Danish fishermen play an important role in the nation's international trade. During recent years more than 6% of Denmark's total export earnings have consisted of fish and fish products. Accession to the European Economic Community (EEC) has considerably benefited the promotion of these fish exports. Fisheries also make a major contribution to the local economies in coastal areas, where few employment possibilities other than agriculture or fishing are available.

Fisheries are the chief support of the economies of both Greenland and the Faeroes, accounting for more than 90% of the latter's exports. Greenland fishermen operate principally in the near-coastal waters while Faeroese vessels fish in both coastal and distant waters.

Denmark, Greenland, and the Faeroe Islands have a 12-mile fishing limit. As a party to the European Fisheries Convention, Denmark permits fishing by the other convention nations in the outer 6 miles of its fishing zone. The EEC Treaty of Accession for Denmark, Ireland, and the United Kingdom also allows fishing by all Common Market nationals in the outer 6 miles of the member states' zones until 31 December 1982, unless otherwise specified. Denmark succeeded in negotiating an exception for the Faeroes, Greenland, and the South Danish coast between Thyboron and Blaavandshuk, thus preserving the 12-mile exclusive fishing zone

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in these areas. Further, the Treaty of Accession prohibits Danish vessels not coming from Greenland to operate in the Greenland zone after 31 December 1977.

Deep Seabed Capabilities and Interests -- The Danes have no foreseeable plans to explore and exploit the deep seabeds for manganese nodules. Denmark does not have a major metals industry.

Marine Transportation -- The Danish merchant fleet is modern, efficient, and well maintained, and serves major trade routes of the world. Most of the tonnage is employed in crosstrades between foreign countries. The considerable amount of net earnings in foreign exchange that are derived annually from crosstrade operations makes an important contribution to Denmark's balance of payments. With the exception of one passenger ship, the merchant fleet is controlled by private beneficial owners. The Danish charter tanker fleet transits such major international straits as Gibraltar, Hormuz, and Malacca. A net importer of fuels, Denmark obtains most of its supply of crude oil from Kuwait, Saudi Arabia, Nigeria, and Oman. Denmark is also a leading shipbuilding nation.

Naval Considerations -- The Royal Danish Navy is a small, modern naval force; its mission is to contribute to NATO control of the Baltic Sea exits and provide the coastal defense of Denmark. Although the navy consists predominantly of patrol vessels and mine warfare craft, it also has a limited submarine capability. It does not have a high seas responsibility.

Scientific Research -- Denmark was one of the most active European countries in oceanography until the 1950s, when its role began to decline as the field became more complex and sophisticated. The Danes lack the necessary funds and resources for broad and continuous independent oceanographic research. The country offsets this deficiency by cooperating with other states in fisheries research, oceanographic and hydrographic expeditions, and exchange of marine science information.

Political and Other Factors

Denmark has combined membership in the Western alliance with strong support of the United Nations and the U.N.'s efforts to maintain a bridge between the Communist and non-Communist nations. Denmark's cultural affinities with the other Scandinavian states are reflected in unusually close political relations, finding expression in meetings of the Nordic Council of these nations and Finland. The Danes recognize that membership in NATO is essential

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to their security, but government policy forbids the presence of foreign bases or storage of nuclear weapons in Denmark in peacetime. U.S. bases have been allowed in Greenland, however.

Denmark voted in the national referendum of October 1972 to become a full member of the EEC. It has succeeded in adhering to the Common Market's fishery position while simultaneously attempting to resolve the conflicting fisheries needs and demands of its diverse areas. Denmark has also endorsed the EEC's positions on the conditions of exploration and exploitation of the deep seabed and of the rights and duties of states on the high seas.

The Faeroe Islands are a self-governing province within the Kingdom of Denmark. While complete independence would allow them to claim a larger exclusive fishing zone, it would also result in the loss of some \$125 million annually in economic assistance from Denmark. The Danish Government has accepted the 25 January 1974 Resolution of the Faeroese Assembly that unanimously rejected full membership in the EEC. The rejection of Common Market membership was prompted by a desire to keep their near-water fishing grounds closed to EEC fishermen. The Danes will attempt to negotiate a free trade agreement for the Faeroes with the Common Market. The Faeroese could reverse their decision and opt to enter the EEC at a later date if an LOS convention codifies a fishing regime favorable to their interests.

Greenland is a province of Denmark that does not yet possess home rule. Executive power is presently exercised by a Provincial Governor responsible to the Minister for Greenland, a member of the Danish Cabinet. Popular pressure is increasing in Greenland for some form of local political rule. A committee appointed to study the issue probably will recommend that Greenland be granted autonomy in an arrangement similar to the Faeroese system.

C. LAW OF THE SEA POLICY

Territorial Seas

The Danes feel that a maximum limit of 12 miles for the territorial sea is sufficient for all legitimate coastal state interests in a maritime zone of full sovereignty. It is uncertain whether Denmark would expand its territorial sea from the present 3-mile limit to 12 miles if the LOS Convention approves the wider limit.

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Straits

The straits issue is the most contentious law of the sea topic for Denmark. The Danes have repeatedly stated that they will support an unimpeded transit regime for passage through straits only if the Danish Straits of the Sound, Great Belt, and Little Belt are excepted. They have been unyielding to date on their insistence that the special regime of innocent passage governing transit through the Danish Straits must be retained.

The Danes feel there is no need for a general revision of the regime of existing international straits (those narrower than 6 miles) that has its roots in customary international law. They state that a right of passage comparable to the freedom of navigation that exists on the high seas has never existed in some old and narrow straits. In such passages as the Danish Straits a special regime, adapted to the local conditions, has been developed over the years based on treaties, customs, and the national legislation of the coastal state. The Danes think that such special arrangements, having proved their value by serving the interests of both the coastal state and the international community, should continue to reign.

Danish spokesmen have mentioned that the country is not able politically and psychologically to accept a regime that would deny Denmark any control over transit of its straits by Soviet warships or to consent to the establishment of high seas corridors that would separate their principal islands. Even though Denmark allows de facto free transit through its international straits, it opposes a treaty text that would require the straits states to permit free passage in all circumstances. Those straits in Denmark between 6 and 24 miles in width are of less concern. There is no objection to the Bornholmsgat, for instance, being covered by a regime of unimpeded transit.

The Danes offer considerable evidence in support of the position that their straits merit consideration as an exception to a regime of unimpeded transit. They argue that the Copenhagen Conventions of 1857 assure that the Baltic Sea is open in peacetime to all vessels of all states. The Conventions, and the body of custom and practice arising from it, are a viable legal arrangement that has well served the maritime interests of the international community.

The heavy ferry traffic across the Danish Straits and projected bridges and tunnels to connect the islands at the straits have been cited as examples of Danish usage that must not be interfered with by the provisions of a new LOS Treaty. The bridge/tunnel issue is the most recent example of Soviet pressure on Denmark regarding the

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straits. Soviet Chairman Kosygin informed Danish Prime Minister Jorgensen in 1973 that Denmark's plans for construction of structures over or under the Danish Straits were an international question and that it would be necessary for the Danes to consult interested countries, including the U.S.S.R., before proceeding. Kosygin remarked that Denmark should not carry out these projects unilaterally. Further Danish apprehension is raised by the Soviet draft articles on straits that incorporate this passage, "The coastal state shall not place in the straits any installations which could interfere with or hinder the transit of ships."

Maritime accidents and vessel-source pollution are also paramount Danish concerns. The Danes fear large oil spills in the straits resulting from the increased size and speed of ships, and the greater traffic density. They note that it is of increasing importance to control pollution, and they emphasize that they will oppose anything that would tend to prevent enforcement of international standards by Denmark in straits overlapped by territorial seas. Denmark has established safe navigation rules for certain types of vessels that transit the Great Belt. These rules, which the Danes note are not adhered to by all vessels, require the use of a pilot and radiotelephone contact with Danish traffic control, and limit a vessel's draft to 15 meters. The Danes have sought to strengthen their regulations by seeking an Inter-Governmental Maritime Consultative Organization (IMCO) resolution on the safe navigation of the Great Belt.

The final major objection raised by Denmark to accepting a regime of unimpeded transit for the Danish Straits involves their fear of submerged passage by Soviet submarines and possible clandestine activities under water. Military and geographic experts have largely discounted this threat since the narrow and relatively shallow channels in both the Sound and Great Belt make submerged transit impractical. They reason that submerged large nuclear submarines could easily be identified in these channels.

Mr. Per Fergo, Chairman of Denmark's LOS Delegation, stated in Caracas that it might be preferable to deal elsewhere with the question of overflight of straits. Earlier, Danish spokesmen commented that unrestricted overflight of the Danish Straits could potentially force Denmark to close down its entire air defense system.

Throughout the Caracas session of the LOS Conference Denmark steadfastly adhered to its position that the Danish Straits, and all other passages narrower than 6 miles, must be exempted from

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a regime of unimpeded transit. On 22 July 1974 the 6-mile exclusion was formally proposed by Denmark and Finland in an amendment to the United Kingdom's draft articles on the territorial sea and straits (see Annex).

Strong efforts were made in Caracas to satisfy the Danes on the straits issue without resorting to the 6-mile exception. In response to U.S. overtures, Ambassador Fergo indicated that a possible solution to the impasse might be for the Conference to adopt the language of UK Article 10 and for certain states to provide written assurances that the article applied in the context of the Copenhagen Conventions of 1857 and the body of custom and practice arising therefrom. Such assurances from the United States, United Kingdom, U.S.S.R., West Germany, and the Netherlands would amount to recognition of a regime of nonsuspendible innocent passage in the Danish Straits. Article 10 of the UK draft reads, "The provisions of this Chapter shall not affect obligations under the Charter of the United Nations or under conventions or other international agreements already in force relating to a particular strait." The Soviets were unwilling to provide an explicit assurance that innocent passage exists in the Danish Straits, but appeared amenable to privately stating that the LOS Convention would not alter the status quo in those passages. The Soviets interpret the status quo as being a regime of unimpeded transit.

The Danes may be holding out on the straits issue, planning to use it as a bargaining chip to gain some other concession. Since fisheries is the only other LOS issue of paramount concern to Denmark, it is conceivable that the Danes will trade off their straits vote for a modification of the U.S. position on anadromous species or for an economic zone structured to allow traditional Danish fishing to continue off other states' coasts.

The only sign of Danish moderation on the straits issue came from an official of the Ministry of Foreign Affairs in 1973. He thought that great domestic problems probably would arise if a regime were codified that recognized the authority of the straits states to require prior permission for passage by foreign warships. The spokesman cited the transit of Soviet convoys through the Danish Straits as a situation that could prove troublesome for his government to handle internally. He commented that there would be few domestic problems, however, if Denmark is placed in the position of having to accept an LOS Convention that embodies a regime of unimpeded transit through international straits, regardless of width. Such an assessment, if shared by others responsible for LOS policy, may indicate that unimpeded transit is not altogether distasteful to the Danes.

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Delimitation and Demarcation

The Danes support the application of the principle of equidistance when delimiting territorial seas and other areas of national jurisdiction in narrow waters. They feel that the equidistance principle has obtained wide international recognition and should be an acknowledged norm of international law. Without such a rule, there would be no objective criteria on which to base a delimitation; everything would be open to negotiation and ad hoc solutions.

Semienclosed and Enclosed Seas

Addressing this issue only from the viewpoint of fisheries, Denmark feels that fishing in semienclosed and enclosed seas should be regulated through regional arrangements that take account of the rights of neighboring countries and the historic pattern of the fisheries. The Danes think that a new LOS Treaty should oblige coastal states to establish regional fisheries arrangements in waters to supplement general or global rules.

Continental Shelf

The Danes state that the 200-meter and exploitability criteria of the 1958 Convention on the Continental Shelf are outdated and should be replaced by a precise criterion for delimiting the continental shelf under national jurisdiction and the international seabed area. They feel that the Geneva Convention should be the basis of the Conference's deliberations on the question of the continental shelf of islands. Acceptance of this would assure that the Faeroes, Greenland, and Bornholm would be entitled to jurisdiction over the surrounding shelf since the 1958 Convention defines the continental shelf of islands in the same way as for other territories.

Coastal State Jurisdiction Beyond the Territorial Sea

Denmark now supports a 200-mile economic zone, having abandoned its earlier support of a combined depth and distance criteria. The Danes state that a depth criterion would require very accurate bathymetric data which were not available now and were not likely to be in the foreseeable future. They note that several states have made claims to the continental shelf where it extends beyond 200 miles and suggest that this problem could be considered in the context of a balanced solution of other topics of an economic nature. Mr. Fergo noted that the concept of an intermediate zone

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or a sharing of revenues might prove useful in arriving at a compromise on the broad shelf states' economic zone proposal. Denmark was an early endorser of the U.S. trusteeship zone scheme.

The issue of the economic zone is principally a matter of fisheries jurisdiction to the Danes. They are not greatly interested in a 200-mile limit, but will accept it if the nature of the regime allows the divergent interests of the South Danish, Faeroese, and Greenlandic fishermen to be satisfied. Their basic goal is an economic zone regime structured by treaty articles to respect the traditional rights of distant-water fishing countries.

The Danes feel that islands should have a full economic zone because their populations are frequently isolated and have few employment opportunities other than the sea. When an island is situated close to another country, the delimitation of the economic zone should be based on the equidistance principle. Denmark holds reservations, however, about the equity of granting states economic zones on the basis of their possession of uninhabited islets and rocks far removed from land.

Denmark supports the U.S. position in all aspects of navigation, including freedom of movement for warships, within the coastal state economic area.

Fisheries

Denmark's fishing interests would best be served by a global agreement allowing special privileges for countries or geographically isolated areas, such as the Faeroes and Greenland, whose economies are heavily dependent on fisheries. The Danes have succeeded to date in adhering to the EEC fishing policy while restraining the demands of Greenland and the Faeroe Islands for fishing zone extensions. On 5 August 1974, Denmark joined seven Common Market states (the United Kingdom declined) at Caracas in sponsoring draft articles on fisheries that emphasize restraints on coastal states' rights and promote the role of regional organizations in determining allowable catches and quotas (see Annex).

Faeroese demands on fishery issues must be taken into consideration by Copenhagen since Danish law requires acceptance by the Faeroese Assembly of any measures negotiated by the Danes that affect the island's fishermen. Faeroese agitation motivated the Danish Government to seek the multilateral agreement establishing conservation zones adjacent to the Faeroese 12-mile fishing limit. The agreement, effective 1 January 1974, sets restrictive catch quotas for cod and haddock fishing by British, West German, French, Norwegian, Belgian, and Polish vessels.

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The salmon problem is the key fishery issue in Greenland. The dissatisfaction with the catch quota set by the International Convention for the Northwest Atlantic Fisheries (ICNAF) has been seized as an issue by politicians and home rule advocates. The Greenland Provincial Council issued a declaration in March 1974 favoring a 200-mile fishing limit.

Denmark has been a spokesman in the European Communities Council for modifying the EEC fishery policy on the North Atlantic regions whose economies are heavily dependent on fishing. The Danes have suggested that the inhabitants of Greenland, the Faeroes, Northern Norway, the Shetlands, Orkneys, and, by inference, Iceland, be granted priority on fishing both within and outside the 12-mile limit, special marketing arrangements, subsidies, and reciprocity in each others' waters. While the Danish initiative appeared mainly intended to reduce pressures from the Faeroese and Greenlanders for extended fishery rights, it also represented a continuation of Danish efforts to become a voice for the Nordic states in the Common Market.

Denmark is a determined opponent of the U.S. position on anadromous species. The Danes feel that salmon is common property -- a migrant fish that cannot be reserved for the states of origin. They argue that it would be contrary to the international character of the high seas to reserve the yield of an individual species exclusively for particular countries. The Danes believe that anadromous species should not be regulated by a global convention since the topic concerns relatively few countries. They would prefer that the conservation and allocation of salmon be determined by agreement among interested states or by international arrangements promulgated by intergovernmental fisheries organizations. Denmark, striving to maintain Greenland's salmon catch, set forth its views on anadromous species in a draft article submitted at Caracas on 5 August 1974 (see Annex).

The 1972 resolution of ICNAF has been an irritant to Denmark. The resolution requires the phaseout of high seas fishing for Atlantic salmon by Denmark and Norway off Greenland by 1 January 1976. Greenland fishermen, however, were allowed an annual catch quota of 1,100 metric tons within their 12-mile fishing zone. Copenhagen is currently seeking support within ICNAF for an increase in Greenland's salmon quota, the most valuable species landed. Denmark and West Germany are the only nations declining to adhere to the Northeast Atlantic Fisheries Convention regulation that bans the high seas fishing of salmon in the Northeast Atlantic after 31 December 1975.

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The major points of Denmark's position on fisheries are:

- the effective management of fisheries is better achieved through the control of species rather than by the establishment of arbitrary zones;
- conservation measures should be non-discriminatory and must be established for the sole purpose of maintaining or restoring the maximum sustainable yield;
- lesser-developed-country coastal states and isolated populations heavily dependent on fisheries should have preferential access to coastal species to the extent of their catch capacity. These isolated groups should also be allowed to maintain their traditional distant-water fisheries;
- other traditional distant-water fishing states should be able to negotiate with coastal states according to criteria established by the LOS Convention;
- special regional arrangements should be agreed upon by littoral states in semi-enclosed seas and other narrow waters;
- the conservation and allocation of anadromous species should be determined by regional fisheries organizations;
- the authority to implement international conservation and allocation rules should be vested in regional fisheries organizations which might delegate certain powers to coastal states; and
- international standards should be established for the compulsory settlement of disputes.

The Danes have stated that passage by the U.S. Congress of the 200-mile Fisheries Bill (S.1988) would have an adverse effect on Faeroese fishing off the U.S. coast. They feel that passage of the act would be a regressive and irresponsible action by a major state that should be expected to assert leadership in reaching an international consensus rather than resorting to unilateral

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action. Denmark would regard such a unilateral step as seriously prejudicing the chances of obtaining reasonable international agreement on a new Law of the Sea.

The Danes sense that they will have to live in the future with greater restrictions on distant-water fisheries, but they want these changes to be reached in an orderly manner through international agreement.

High Seas

In a preamble to a working document on the high seas submitted by the nine Common Market states at Caracas on 12 August 1974 (see Annex), Denmark and other cosponsors stated that the principles and provisions contained in the 1958 Geneva Convention on the High Seas are valid, must remain in force for areas beyond the territorial sea, and should be incorporated in any new convention on the Law of the Sea. A series of draft articles were proposed as additions to the High Seas Convention that would inter alia:

- require each flag state to maintain a register of shipping, investigate maritime accidents involving vessels flying its flag, assure that ships officers possess appropriate qualifications, and assume jurisdiction under its municipal law over each ship flying its flag and over its crew in respect of administrative and technical matters concerning the ship;
- call on all states to cooperate in the suppression of illicit traffic in narcotic drugs by ships on the high seas; and
- call on all states to cooperate in the repression of unauthorized broadcasting from the high seas.

Denmark supports the U.S. position in all aspects of high seas navigation, including freedom of movement for warships.

Deep Seabed

Denmark believes that a 200-mile limit to the coastal state economic zone will appropriately divide the continental slope and rise between the international community and the coastal states. The Danes emphasize that the scope of a deep seabed

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regime should include only the seabed and the subsoil thereof and not the superjacent waters. They favor a mixed system of exploitation wherein the International Seabed Authority (ISA), states, and private companies would all be given an opportunity to extract hydrocarbons and manganese nodules. The system should provide for the transfer of technology to the ISA, possibly as a condition of granting licenses. The licensing system proposed by the United Kingdom was endorsed by Denmark as a means of ensuring the orderly development of seabed resources. The UK proposal would reserve areas of the deep seabed for later exploitation by the Enterprise and states which do not yet possess the necessary technological and financial means. The Danes state that the distribution of revenues by the ISA to the LDCs should not begin until the Authority had amassed sufficient capital for seabed mining. They further believe there is a need to ensure that measures taken to protect the interests of land producers do not have an adverse effect on the development of deep seabed exploitation.

Denmark insists that the ISA should be concerned only with exploration for and exploitation of the seabed resources within the international area. The Authority should not be granted any jurisdiction over fisheries, marine pollution, or scientific research.

The Danes agree that the principal organs of the ISA should be an assembly, a council, a secretariat, and a tribunal. Every party to the international seabed convention should have a seat in the assembly, which should be the supreme organ of the Authority, competent to discuss any matter within its terms of reference and with power to discuss and outline the guidelines for its policy. The assembly should elect the members of the council and approve its budget and reports. Each member state would have one vote and decisions should be taken by a simple majority.

The composition of the council must reflect the diverse interests of states that are parties to the convention. There should be equitable representation for developing nations, technologically advanced states, and countries with long coastlines or broad shelf areas. The council should have no powers other than those expressly conferred on it by the convention or the assembly. Its most important function would be to administer the license system. Decisions on substantive matters should be taken by a two-thirds majority, although some manner of cumulative majority might be considered in order to secure the interests of small groups of countries. The tribunal should adjudicate any

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dispute referred to it concerning conflicts between member states or between a member state and the ISA pertaining to the interpretation and application of the convention.

On 16 August 1974, Denmark joined seven other Common Market states (Ireland declined) in sponsoring a set of draft articles on the conditions of exploration and exploitation in the international seabed area (see Annex). The articles define the various activities associated with deep seabed mining and offer specifics on the award and duration of exploitation contracts and the size of concession areas. No applicant may hold more than six contracts at any one time in either category of resources -- hydrocarbons or polymetallic nodules. Contracts shall have a duration of 30 years and thereafter may be renewed every 10 years for a maximum period of 50 years. Concession blocks shall have a maximum surface of 9,000 square kilometers for hydrocarbon exploitation and 60,000 square kilometers for nodule mining. Prospecting (exploration) shall be open in the international area save for the blocks where exploitation contracts have been awarded.

Landlocked, Shelf-Locked and Geographically Disadvantaged States

Denmark attaches great importance to the need to recognize the traditional fishing rights of landlocked and shelf-locked states and other geographically disadvantaged nations as part of a balanced arrangement.

Marine Pollution

The Danes feel that one of the basic objectives of the LOS Conference is to strengthen common endeavors to combat marine pollution while simultaneously avoiding unnecessary interference with world shipping. They favor a regime of uniform international vessel-source pollution standards enforced by flag states, but appear willing to accept port state enforcement of international standards as well as coastal state enforcement of similar standards in a pollution zone of unspecified breadth. Denmark also indicates that it is willing to accept higher coastal state discharge standards in special areas like the Mediterranean and Baltic and in virgin areas such as the Arctic, provided the standards are approved by a suitable international organization.

Denmark would prefer that the LOS Conference not replace or duplicate existing pollution abatement efforts or create a new network of agreements on the various sources of marine pollution. Instead, it suggests that an LOS Treaty supplement existing

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pollution control measures by incorporating general principles on the rights and responsibilities of states regarding protection of the ocean environment. The Danes point out that a number of international organizations have been actively engaged for several years in developing standards governing the design, construction, equipment, and manning of ships. They have full confidence in the competence of these organizations, particularly IMCO, and feel that their standards should serve as a model for future international agreements.

Denmark cannot approve of any proposal to allow coastal states to set pollution standards pending the establishment and implementation of internationally agreed measures. It feels that such an approach would result in a multitude of differing regimes based on the national legislation of the coastal states.

Scientific Research

It should be the goal of a new LOS convention to hinder research as little as possible and to promote the closest international cooperation, according to the Danes. They feel that all states and international organizations should have the widest acceptable rights of freely conducting marine scientific research, with due regard for the other legitimate uses of the sea and the general principles of international law.

Denmark believes that scientific research within the territorial sea should be conducted only with the consent of the coastal state. Conflicting evidence is available on their position on research in the economic zone. Mr. Jacobsen, a Danish representative, stated at Caracas that coastal state consent should be required for research on the continental shelf subject to national jurisdiction; however, a set of draft articles submitted on 23 August 1974 at Caracas by Denmark and other states (see Annex) calls for coastal state consent in the economic zone only in those instances involving deep drilling or the use of explosives. Research beyond national jurisdiction should be open to all parties, as mentioned in the paper submitted by the International Council of Scientific Unions.

Denmark endorses granting the coastal states the opportunity to participate in the research, providing them with the missions' results, and assisting in the interpretation of the results of the research project.

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Settlement of Disputes

The Danes suggest that a new LOS Treaty include provisions for the settlement of disputes by negotiation, conciliation or arbitration in accordance with Article 33 of the United Nations Charter.

D. KEY POLICY MAKERS, LOS NEGOTIATORS AND ADVISERS

The Danish Government is parliamentary in form with political power held by the Prime Minister, the Cabinet, and the Folketing. The Ministry of Agriculture and Fisheries, Ministry of Foreign Affairs, Ministry of Greenland, and the Royal Danish Navy are the agencies most concerned with LOS matters. Messrs. Fergo, Buhl, and Kiaer have been the principal spokesmen for Copenhagen in the various LOS sessions.

Denmark's representatives at the preparatory sessions for the Third UN Conference on LOS and the organizational (December 1973) and Caracas (Summer 1974) sessions of the Conference are as follows:

SECRET

Name and Title	Seabed Committee Session						Third LOS Conf.
	Mar 71	Jul Aug 71	Feb Mar 72	Jul Aug 72	Mar Apr 73	Jul Aug 73	Dec 73 Jun- Aug 74
*Ib R. ANDREASEN Head of Section Ministry of Foreign Affairs					X	X	X
Gunnar BLAEHR Assistant Head of Department Legal Division Ministry of Foreign Affairs	X	X	X	X			
*Peter BRUCKNER Head of Section Ministry of Foreign Affairs		X	X	X	X	X	
*Johannes Fons BUHL Counselor Permanent Mission to the UN					X		X
Lars CHEMNITZ Chairman of the Provincial Council of Greenland							X
*Per FERGO Under-Secretary of State for Legal Affairs Ministry of Foreign Affairs	X	X	X	X	X	X	X
E. GESMAR Assistant Head of Division Ministry of Commerce							X
Erik HESSELBJERG Permanent Under-Secretary of State Ministry of Greenland							X
*Frederik KIAER Head of Division Ministry of Foreign Affairs							X

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Name and Title	Seabed Committee Session						Third LOS Conf.
	Mar 71	Jul Aug 71	Feb Mar 72	Jul Aug 72	Mar Apr 73	Jul Aug 73	Dec 73 Jun- Aug 74
E. LEMCHE Head of Section Ministry of Greenland							X
Knud LOKKEGAARD Head of Department Ministry of Agriculture and Fisheries						X	X
W. McILLQUHAM SCHMIDT Under-Secretary of State Ministry of Foreign Affairs	X	X	X	X	X	X	X
Kjeld Vilhelm MORTENSEN Ambassador							X
D. NOLSOE High Court Judge Prime Minister's Office Faeroese Home Government						X	X
J. NORGAARD Permanent Under-Secretary of State Ministry of Agriculture and Fisheries							X
*Eigil PEDERSEN Head of Section Ministry of Foreign Affairs							X X
Kari PETERSEN Head of Section Faeroese Home Government						X	X
Birgitte POULSEN Head of Section Ministry of Foreign Affairs							X

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Name and Title

Dr. Axel SERUP
Ambassador to Venezuela

Henrik STENBJERRE
Secretary of Embassy
Permanent Mission of Denmark
to the UN

L. TORNAES
Danish Fisheries Organization

Bo WILDFANG
Head of Section
Ministry of Greenland

Seabed Committee Session							Third LOS Conf.	
Mar 71	Jul Aug 71	Feb Mar 72	Jul Aug 72	Mar Apr 73	Jul Aug 73	Dec 73	Jun- Aug 74	
							X	
X								
							X	
							X	

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DENMARK

Part II - Background Information

Geography

World region: Western Europe

Category: Denmark -- coastal/shelf-locked; Greenland and the Faeroe Islands -- coastal/open shelf

Bordering states: West Germany

Bordering bodies of water: Atlantic Ocean, Arctic Ocean, North Sea, Baltic Sea, Norwegian Sea, Greenland Sea, Baffin Bay

Bordering semiencllosed sea: Baltic Sea, North Sea, Baffin Bay

Bordering straits: Skagerrak, Kattegat, Great Belt (5.8 mi.), The Sound (2.1 mi.), Little Belt (0.35 mi.), Bornholmsgat (19 mi.), Davis Strait

Area of continental shelf: 20,000 sq. mi. (Denmark only), shared with Norway, Sweden, U.K., West Germany, East Germany, Poland, Canada

Area to 200 mi. limit: 20,000 sq. mi. (Denmark only), shared with Norway, Sweden, U.K., West Germany, East Germany, Poland, Canada

Area to edge of continental margin: 20,000 sq. mi. (Denmark only)

Coastline: Denmark -- 2,100 statute mi.; Faeroe Islands -- 475 statute mi.; Greenland -- 27,400 statute mi. (approx.)

Land: Denmark -- 16,600 sq. statute mi.; Faeroe Islands -- 540 sq. statute mi.; Greenland -- 840,000 sq. statute mi.

Population: Denmark -- 5,064,000; Faeroe Islands -- 40,000; Greenland -- 50,000

Industry and Trade

GNP: Denmark -- \$21.7 billion (1973), \$4,330 per capita; Faeroe Islands -- GDP \$78.7 million (1970), about \$2,020 per capita; Greenland -- included in that of Denmark

Major industries: Denmark -- food processing, machinery and equipment, textiles and clothing, chemical products, electronics, transport equipment, metal products, brick and mortar, furniture and other wood products; Faeroe Islands -- fishing; Greenland -- mining, slaughtering, fishing, sealing

Exports: Denmark -- \$6,085 million (f.o.b., 1973), meat, dairy products, industrial machinery and equipment, textiles and clothing, chemical products, transport equipment, fish, furs, furniture; Faeroe Islands -- \$37.6 million (f.o.b., 1971) fish and fish products; Greenland -- \$18.8 million (f.o.b., 1970), fish and fish products, nonmetallic minerals

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Industry and Trade (Con't)

Imports: Denmark -- \$7,685 million (c.i.f., 1973), industrial machinery, transport equipment, petroleum, textile fibers and yarns, iron and steel products, chemicals, grain and feedstuffs, wood and paper; Faeroe Islands -- \$40.6 million (c.i.f., 1971), machinery and transport equipment, petroleum and petroleum products, food products; Greenland -- \$61.0 million (f.o.b., 1971), machinery and transport equipment, petroleum and petroleum products, food products

Merchant marine: 295 ships (1,000 GRT or over) totaling 3,930,700 GRT; includes 12 passenger, 178 cargo, 6 container, 6 roll-on/roll-off cargo, 37 tanker, 12 liquefied gas, 27 bulk, 2 combination ore/oil, 15 specialized carrier

Marine Fisheries

Catch: Denmark -- 1.4 million metric tons (1973), valued at \$211 million, exports -- \$391 million, imports -- \$99 million; Faeroe Islands -- 242,300 metric tons (1973), exports -- \$69.7 million; Greenland -- 42,500 metric tons (1973), valued at \$10.4 million

Economic importance: significant both nationally and locally

Ranking: 4th largest in Europe (including the U.S.S.R.)

Nature: coastal and distant-water

Other fishing areas: Iceland, Canada, Norway, U.K., West Germany, Netherlands

Species: cod, herring, haddock, plaice, Norway pout, sprat, mackerel, sand eel, salmon, lobster, shrimp

Marine fisheries techniques; primarily modern

Other countries fishing off coast; Norway, Sweden, U.K., West Germany, U.S.S.R.

Extent of foreign offshore fishing; significant in North Sea

Petroleum Resources

Petroleum: production -- 1.0 million 42 gal. bbl. (.136 million metric tons) offshore; proved recoverable reserves -- 250 million 42-gal. bbl. (34 million metric tons) offshore (1973)

Nature gas: production -- offshore gas shut in; proved recoverable reserves -- 500 billion cubic feet (14 billion cubic meters) offshore (1972)

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Navy

Ships: 2 destroyer escorts, 6 submarines, 4 coastal escorts, 4 patrol escort, 10 fast patrol boats, 6 motor torpedo boats, 9 small submarine chasers, 5 minelayers, 12 minesweepers, 3 auxiliary, 15 service craft

Government Leaders

Head of State: Queen Margrethe II; Prime Minister, Poul Hartling
Foreign Minister: Ove Guldberg

Membership in Organizations Related to LOS Interests

Council of Europe

EC	European Communities
FAO	Food and Agriculture Organization
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
IHB	International Hydrographic Bureau
IMCO	Inter-Governmental Maritime Consultative Organization
NATO	North Atlantic Treaty Organization
Nordic Council	
OECD	Organization for Economic Cooperation and Development
Seabeds Committee	United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor beyond the Limits of National Jurisdiction
UN	United Nations
UNESCO	United Nations Educational, Scientific, and Cultural Organization
WMO	World Meteorological Organization

Multilateral Conventions

Norway-Sweden-Denmark. Agreement on Reciprocal Access to Fishing in the Skaggeak and the Kattegat. In force August 7, 1967.
Norway-Sweden-Denmark. Agreement concerning Measures for the Protection of the Stocks of Deep-Sea Prawns, European Lobsters, Norway Lobsters, and Crabs. In force January 26, 1953.
Finland-Norway-Sweden-Denmark. Agreement concerning Co-operation in taking Measures against Pollution of the Sea by Oil. In force October 16, 1971.
I.C.E.S.-Denmark. Agreement on the Privileges, Immunities, and Facilities to be granted to the International Council for the Exploration of the sea. In force July 24, 1968.

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Multilateral Conventions (Con't)

Finland-Norway-Sweden-Denmark. Agreement concerning Uniform Rules for the Marking of Navigable Waters. In force October 18, 1962.

Finland-Norway-Sweden-Denmark. Agreement concerning Co-operation in Ice-Breaking. In force December 20, 1961.

1958 Convention on the Territorial Sea and Contiguous Zone. September 26, 1968.

1958 Convention on the High Seas. September 26, 1968.

1958 Convention on Fishing and Conservation of the Living Resources of the High Seas. September 26, 1968.

1958 Convention on the Continental Shelf. June 12, 1963.

International Convention for the Prevention of Pollution of the Sea by Oil. November 11, 1956.

1969 Amendments to the International Convention for the Prevention of Pollution of the Sea by Oil. March 22, 1971.

International Convention for the Safety of Life at Sea. January 12, 1964. 1966 Amendments accepted July 24, 1969.

Regulations for the Prevention of Collisions of Vessels at Sea. July 10, 1961.

Convention on Facilitation of International Maritime Traffic. September 1, 1968.

International Convention on Load Lines. June 28, 1967.

International Convention for the Northwest Atlantic Fisheries. December 14, 1950.

North-East Atlantic Fisheries Convention. July 14, 1960.

Fisheries Convention. October 9, 1964.

Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil. June 9, 1969.

European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories. September 22, 1965.

International Convention for the Regulation of Whaling. May 23, 1950. Protocol to the Convention accepted July 26, 1957.

Nuclear Test Ban Treaty. January 15, 1964.

Seabed Arms Limitation Treaty. June 15, 1971.

Convention on Transit Trade of Land Locked States. May 26, 1969.

Convention on the Inter-Governmental Maritime Consultative Organization. June 3, 1959.

Convention on the International Hydrographic Organization. June 22, 1970.

Convention on the International Council for the Exploration of the Sea. April 20, 1965.

Convention on Fishing and Conservation of the Living Resources of the Baltic Sea and Belts. Signed September 13, 1973.

Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft.

1973 IMCO Convention for the Prevention of Pollution from Ships.

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Multilateral Conventions (Con't)

Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter. Signed December 29, 1972.

Convention for the Protection of the Baltic Sea from Pollution. Signed March 22, 1974.

United Kingdom-Federal Republic of Germany-France-Norway-Belgium-Poland-Denmark. Agreement on Fishing in Waters surrounding the Faeroe Islands. In force January 1, 1974.

Bilateral Conventions

Federal Republic of Germany-Denmark. Agreement concerning the Delimitation, in the Coastal Regions, of the Continental Shelf of the North Sea. In force May 27, 1966.

Norway-Denmark. Agreement relating to the Delimitation of the Continental Shelf. In force June 22, 1966.

United Kingdom-Denmark. Agreement relating to the Delimitation of the Continental Shelf between the Two Countries. In force February 6, 1967.

United Kingdom-Denmark. Agreement relating to the Delimitation of the Continental Shelf between the Two Countries. Signed November 25, 1971. When in force, this Agreement will supersede Agreement of February 6, 1967.

Netherlands-Denmark. Agreement concerning the Delimitation of the Continental Shelf under the North Sea between the Two Countries. In force August 1, 1967. Terminated by 1971 Agreements between the Netherlands, Federal Republic of Germany, and Denmark that established new shelf boundaries in the North Sea.

Federal Republic of Germany-Denmark. Treaty relating to the Delimitation of the Continental Shelf under the North Sea. Signed January 28, 1971.

Federal Republic of Germany-Denmark. Agreement regarding Common Fishery Rights in the Flensburg Fjord. Signed 29, 1958.

Poland-Denmark. Fisheries Agreement. Signed February 26, 1971.

Iceland-Denmark. Exchange of Notes constituting an Agreement on the Access for Faeroese fishermen to engage in handline fishing off Iceland. In force August 1, 1961

Norway-Denmark. Exchange of Notes constituting an Agreement on Traditional Norwegian Sprat Fishing in the Kattegat. In force August 7, 1967.

Norway-Denmark. Agreement concerning the East Greenland Fisheries. In force July 10, 1967.

Belgium-Denmark. Exchange of Letters constituting an Agreement regarding the Fishing Rights of Belgian Fishermen in the Fishery Zones of Danish Waters. In force July 1, 1967.

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Bilateral Conventions (Con't)

- Federal Republic of Germany-Denmark. Exchange of Notes constituting an Agreement concerning German Fishing Rights in the Danish Fishery Zone. In force November 30, 1967.
- Norway-Denmark. Exchange of Letters constituting an Agreement concerning Fishing Rights within the Danish Fishery Zone. In force April 26, 1968.
- Netherlands-Denmark. Exchange of Notes constituting an Arrangement concerning Fishing Rights within Danish Fishery Areas. In force May 30, 1968.
- Canada-Denmark. Exchange of Notes concerning Fisheries Relations. In force March 27, 1972.
- Belgium-Denmark. Exchange of Notes constituting an Arrangement to facilitate the Settlement of Disputes arising at sea between Belgian and Danish Fishermen outside Territorial Waters. In force January 1, 1949.
- Norway-Denmark. Agreement regarding Claims in Respect of Damage to Fishing Gear. In force January 14, 1952.
- Sweden-Denmark. Exchange of Notes constituting an Agreement concerning Swedish Direct Landings of Fish in Denmark. In force December 5, 1967.
- U.S.A.-Denmark. Agreement concerning Visits of the N.S. Savannah. In force July 2, 1964.
- Canada-Denmark. Agreement relating to the Delimitation of the Continental Shelf between Canada and Greenland. 1973.

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Present Ocean Claims*

<u>Type</u>	<u>Date</u>	<u>Terms</u>	<u>Source, Notes</u>
Territorial Sea	1899	4 mi.	Decree No. 147 <i>Denmark claimed a 4 mi. Territorial Sea before 1930. Feb. 12, 1812</i>
	1966	3 mi.	Royal Decree on the Delimitation of the Territorial Sea of Dec. 21, 1966 (Order No. 437) <i>Party to the Territorial Sea Convention (Sept. 26, 1968) See <u>Limits in the Seas</u>, No. 26, <u>Territorial Sea Boundary:</u> Denmark-Sweden</i>
Continental Shelf	1963	Convention Definition	Royal Decree of June 7, 1963 <i>Party to the Continental Shelf Convention (June 12, 1963)</i>
Exclusive Fishing	1931	3 mi.	Act No. 93, Mar. 3, 1931
	1965	12 mi.	<i>Signatory: European Fisheries Convention</i>
Customs	1928	4 mi.	Order No. 171, May 11, 1928 <i>Also Law No. 156, Apr. 12, 1960</i>
Security	1951		Royal Ordinance of July 25, 1951 <i>Governs the admittance of foreign Men-of-War and service aircraft to Danish territory in time of peace. Delimits prohibited zones and transit areas.</i>
Neutrality	1812		Decree of Feb. 22, 1812
Straight Baselines	1966		Royal Decree of Dec. 21, 1966 <i>See <u>Limits in the Seas</u> No. 19</i>
Smuggling	1926	12 mi.	Order No. 150, May 20, 1926.

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Present Ocean Claims (cont'd)

1. 1964 European Fisheries Convention allows Belgian fishermen to fish in 6-12 mi. fishing zone for specified fish in designated areas. Ser. Ord No. 130 of April 27, 1959 (Doc. A/CONF. 19/5, under Denmark).
2. Denmark-Federal Republic of Germany Agreement of June 7, 1968 provides for traditional German fishing rights.
3. Denmark-Norway-Sweden Agreement of December 19, 1966 provides 3 countries may fish up to a line 4 mi. from baselines in Skagerrak and Kattegat.

* Principal Source: *Limits of the Seas, National Claims to Maritime Jurisdictions*, 2d Revision, State Dept./INR, April 1974.

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Action on Significant UN Resolutions

Moratorium Resolution

(A/RES/2574 D, XXIV, 12/15/69)

Pending establishment of international regime, States and persons are bound to refrain from exploiting resources of or laying claim to any part of the seabed and ocean floor beyond the limits of national jurisdiction.

Against

LOS Conference

(A/RES/2750 C, XXV, 12/17/70)

Convene in 1973 a Conference on Law of the Sea to deal with establishment of international regime for the seabed and ocean floor, and enlarge Seabed Committee by 44 members and instruct it to prepare for the conference draft treaty articles embodying international regime.

In favor

LOS Conference, Timing and Site

(A/RES/3029 A, XXVII, 12/18/72)

Adopted w/o vote

Indian Ocean as a Zone of Peace

(A/RES/2992, XXVII, 12/15/72)

Called upon littoral and hinterland states of Indian Ocean area, permanent members of the Security Council and other major maritime users of Indian Ocean to support concept that Indian Ocean should be zone of peace.

Abstain

Landlocked/Shelf-Locked Study Resolution

(A/RES/3029 B, XXVII, 12/18/72)

Called for study of extent and economic significance in terms of resources, of international area resulting from each proposal of limits of national jurisdiction presented to Seabed Committee.

Abstain

Peruvian Coastal State Study Resolution

(A/RES/3029 C, XXVII, 12/18/72)

Called for study of potential economic significance for riparian states, in terms of resources, of each of the proposals on limits of national jurisdiction presented to Seabed Committee.

In favor

Permanent Sovereignty over Natural Resources

(A/RES/3016 XXVII, 12/18/72)

Reaffirmed right of states to permanent sovereignty over all their natural resources, wherever found.

Abstain



UNITED NATIONS



**THIRD CONFERENCE
ON THE LAW OF THE SEA**



Distr.
LIMITED

A/CONF.62/C.2/L.15
22 July 1974

ORIGINAL: ENGLISH

Second Committee

Denmark and Finland: amendment to draft articles on the territorial
sea and straits contained in document A/CONF.62/C.2/L.3

On page 8, Chapter Three, amend Article 1 as follows:

Article 1

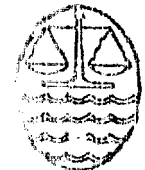
1. In straits to which this article applies, all ships and aircraft enjoy the right of transit passage, which shall not be impeded.
2. Transit passage is the exercise in accordance with the provisions of this Chapter of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas and another part of the high seas or a State bordering the strait.
3. This article applies to any strait or other stretch of water which is more than six miles wide between the base-lines, whatever its geographical name, which:
 - (a) is used for international navigation;
 - (b) connects two parts of the high seas.
4. Transit passage shall apply in a strait only to the extent that:
 - (a) an equally suitable high seas route does not exist through the strait; or
 - (b) if the strait is formed by an island of the coastal State, an equally suitable high seas passage does not exist seaward of the island.
5. The provisions of Chapter Two, Part III apply to straits used for international navigation not wider than six miles between the base-lines.

There shall be no suspension of innocent passage of foreign ships through such straits.

C-0445



UNITED NATIONS



THIRD CONFERENCE
ON THE LAW OF THE SEA



Distr.
LIMITED

A/CONF.62/C.2/L.40
5 August 1974
ENGLISH
ORIGINAL: FRENCH

SECOND COMMITTEE

Belgium, Denmark, Federal Republic of Germany,
France, Ireland, Italy, Luxembourg, Netherlands

DRAFT ARTICLES ON FISHERIES

This proposal for a new fisheries régime is intended merely as a basis for discussion. It is not complete and does not necessarily reflect the final views of the delegations submitting it.

These draft articles would be incorporated into an over-all treaty on the law of the sea.

Article 1

1. Subject to the articles set forth below, all States shall have the right to allow their nationals to engage in the exploitation of the fishery resources of the sea.
2. Such exploitation shall be regulated for the benefit of nationals of all States in such a way as to ensure the rational exploitation and conservation of the fishery resources of the sea in the interest of mankind as a whole.
3. For these purposes:
 - (a) In the zone referred to in article 5, coastal States shall enjoy the fishing rights defined in these articles;
 - (b) All States shall maintain close co-operation at both the world and the regional levels in accordance with the following articles.

C-0945

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PART III: REGIONAL OR SECTORAL FISHERY ORGANIZATIONS

Article 13

1. Fishery organizations, hereinafter called "organizations" shall exercise the functions laid down in these articles. These organizations shall be responsible either for a region or for a given species.

States whose vessels fish or are concerned with and equipped for fishing within a region shall establish a regional organization if one does not already exist. Coastal States of the region, as well as any State whose vessels fish or are concerned with and equipped for fishing in this region, shall be members of this organization.

States whose vessels fish or are concerned with and equipped for fishing for certain species such as tuna and whales shall establish a sectoral organization. This organization shall be established on a regional or world-wide basis if a competent sectoral or regional organization does not already exist. Coastal States in whose zone this activity is exercised, as well as any State whose vessels fish or are concerned with and equipped for fishing for the species in question, shall be members of this organization.

2. The constitutions or rules of procedure of these organizations shall ensure their most effective operation. In particular, they shall provide that the measures referred to in article 14 are as a general rule adopted by a majority greater than a simple majority, but not necessarily unanimously, and that they are binding upon the States members of the organization.

3. Where an appropriate regional or sectoral organization has not yet been established, the coastal State concerned shall consult with other interested States if it is unable to take the action provided for under articles 7 and 9 with respect to such an organization. The decisions taken by the coastal State after such consultations shall be reviewed each year pending the establishment of the organization.

Article 14

1. The organization shall determine the procedures for applying the principles of rational exploitation and conservation as well as the basic principles of the measures to be adopted for this purpose.

2. Within the limits of their competence, they shall exercise the power to adopt the regulatory measures referred to in articles 2 and 3 in any part of a region beyond the zone in which a coastal State exercises such powers in accordance with article 10.

3. The organizations shall co-ordinate the scientific research programmes of member States in order to ensure the supply of appropriate scientific information.

Article 15

Vessels fishing in the area of competence of an organization are bound to comply with the measures adopted by such organizations.

Flag States parties to this Convention shall take the necessary steps to ensure such compliance.

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English

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Should the flag State not bring the matter before its judicial authorities, or should it fail to reply, the coastal State shall have the right to refer the matter to its own courts.

If the flag State has decided to bring the matter before its judicial authorities, it shall inform the coastal State of the outcome of the proceedings.

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4. Any State which considers that such decision taken by the coastal State is in violation of the rights accruing to it under article 8 may, within two months, have recourse to the procedure for settlement of disputes provided for in article 20.

5. Pending the decision of the Special Committee, the decision taken by the coastal State shall remain provisionally valid. However, the State which has referred the matter to the Special Committee, pursuant to paragraph 4 above, may in addition request the latter to prescribe certain provisional measures. The Committee shall rule thereon within six weeks.

6. Every year, the decisions taken by the coastal State and the Special Committee and the agreement of the States concerned, as provided for in the preceding paragraphs, may be reviewed by the organization at the request of any of the interested parties. The provisions of paragraphs 2 to 5 shall apply to such review.

Article 10

In accordance with the principles of rational exploitation and conservation, the regulatory measures referred to in articles 2 and 3 shall be taken by the coastal State in its zone.

Article 11

Vessels fishing in a zone subject to regulation under the conditions provided for in article 10 shall respect the relevant regulations adopted by the coastal State.

The States whose flags are flown by such vessels shall take the necessary steps to ensure that these regulations are respected.

Article 12

1. The coastal State may stop, board and inspect fishing vessels within its zone, if it has valid reason to suspect that they have committed a breach of the fishery regulations as provided for in these articles.

2. The coastal State may also prosecute and punish offences committed by such vessels unless the flag State has established a procedure permitting the prosecution and punishment of breaches of the fishery regulations of the coastal State adopted in conformity with these articles.

In that case, the coastal State shall send a report attesting the breach of regulations to the flag State and shall furnish the flag State with any particulars constituting evidence that such breach has been committed. Within a period of six months from the receipt of the report attesting that breach, the flag State shall make known to the coastal State whether or not it has brought the matter before its judicial authorities so that proceedings may be instituted.

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Article 8

1. Within the framework of the above-mentioned aims of rational exploitation and conservation of fishery resources and taking account of the maximum allowable catch determined by the coastal State pursuant to article 7, as well as any recommendations made by appropriate organizations also pursuant to that article, the coastal State may reserve in its zone that part of the allowable catches of one or more species which vessels flying its flag are able to take.
2. When exercising its right under paragraph 1, the coastal State shall duly take into account the right of access of other States and particularly of:
 - (a) States which have habitually fished in the zone;
 - (b) Developing States of the same region, provided such States have not invoked paragraph 1 above to reserve for vessels flying their flag all the fish they can catch in their own zone;
 - (c) States whose economies are to a very large extent dependent on fishing, where such States have not satisfied their needs by invoking the provisions of this article;
 - (d) States of the same region with limited fishery resources whose economy is especially dependent on fishing;
 - (e) Land-locked States.
3. In implementing this article, allowance shall be made for cases where the coastal State adopting the measures referred to in paragraph 1 is a developing country or a country whose economy is to a very large extent dependent on fishing.

A coastal State may claim the same right with respect to those parts of its territory in which the population is especially dependent on fishing for its livelihood and lacks alternative opportunities for permanent employment.

Article 9

1. A coastal State wishing to avail itself of article 8 shall, in accordance with article 13, notify the competent organization of the proposals concerning the rights to one or more species in its zone which it wishes to have reserved to vessels flying its flag and those to be granted to other States.
2. The organization shall immediately hold consultations on these proposals.
3. Failing agreement within four months of notification, the coastal State may determine, at a level equal to or lower than the proposed level, the rights it will reserve to vessels flying its flag.

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PART II: RIGHTS AND OBLIGATIONS OF COASTAL STATES

Article 4

In a zone beyond its territorial sea,* hereinafter called "the zone", the coastal State may exercise the rights and powers set forth in these articles.

Article 5

1. The zone shall not extend beyond (x) nautical miles measured from the baseline of the territorial sea.
2. The extent of the zone shall be determined by the coastal State, within the limit referred to in paragraph 1, taking into account all relevant factors, in particular the geographical characteristics of the area and the fishery resources and their distribution off its coasts.

Article 6**

Where the coasts of two States are opposite or adjacent to each other, the delimitation of their respective zones within the limit specified in article 5 shall, failing agreement between them, be established in accordance with the provisions of article ...

Article 7

1. When in the interests of conserving any species it is necessary for the coastal State to fix a total allowable catch within its zone, it shall determine the total allowable catch so as to ensure the maintenance of the maximum sustainable yield.
2. The coastal State shall submit the figures determined pursuant to paragraph 1 to the appropriate regional or sectoral organizations. Those organizations may, on the basis of all relevant scientific data, recommend other figures.
3. Two or more coastal States may by mutual agreement decide to request a regional or sectoral fishing organization of their choice to determine the figures provided for in paragraph 1 for all stocks exploited jointly.

* The breadth of the territorial sea (maximum 12 miles) will be dealt with elsewhere, in the provisions relating to the territorial sea.

** As this article concerns a problem that is not peculiar to fisheries, it should contain a reference to a more general provision in the Convention.

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PART I: PRINCIPLES OF RATIONAL EXPLOITATION AND CONSERVATION

Article 2

1. Measures necessary for maintaining, re-establishing or attaining the maximum yield from fishing shall be adopted by States and organizations. These measures shall be based on scientific data and take into account technical and economic considerations. They shall be adopted, subject to these articles, in the light of the regional situation and without discrimination as to form or substance.

2. The measures referred to in paragraph 1 shall be formulated having regard to the need to secure a supply of food for human consumption.

Article 3

The measures referred to in article 2 may include:

- (a) fixing the total allowable catch and its possible allocation;
- (b) regulation of fishing activity;
- (c) the establishment of closed seasons;
- (d) a temporary ban on fishing in certain areas of the sea;
- (e) any technical measures (relating, for example, to fishing gear, mesh sizes, fishing methods, minimum sizes of fish caught, etc.).

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Article 22

If the factual basis of the award of the special committee is altered owing to substantial changes in the stock or stocks of fish or other living marine resources or in methods of fishing, any of the parties concerned may request the organization to make the necessary changes in the measures of conservation.

If a decision cannot be obtained within a reasonable time, any of the parties concerned may again resort to the procedure specified in article 20, provided that at least two years have elapsed since the original award.

PART VI: RELATIONS WITH OTHER TREATIES

Article 23

1. The provisions of these articles

- shall not prejudice the maintenance of any existing special fisheries régime existing among States members of a customs union;

- shall not preclude the establishment of a special fisheries régime among the States fishing for a particular region for that region or among States members of a customs union.

2. Where such a special régime exists, vessels of participating States fishing in the zone of another participating State shall be treated on the same footing as vessels of the latter for the purpose of article 8, paragraph 1.

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PART V: SETTLEMENT OF DISPUTES

Article 20

1. Any dispute which may arise in the cases referred to in these articles shall, at the request of any of the parties, be submitted for settlement to a special committee of five members, unless the parties to the dispute agree to seek a solution by other peaceful means, in accordance with Article 33 of the Charter of the United Nations.
2. The members of the special committee, one of whom shall act as chairman, shall be appointed by mutual agreement between the parties to the dispute within three months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon the request of any party to the dispute, be appointed by the Secretary-General of the United Nations, within a further three-month period, in consultation with the parties to the dispute and with the appropriate United Nations authorities, from among duly qualified persons not parties to the dispute and specializing in the legal, administrative or scientific aspects of fisheries, depending upon the nature of the dispute to be settled. Vacancies shall be filled in the same manner as the initial appointments were made.
3. Every State party to proceedings under these articles shall have the right to designate one person of its choice who shall have the right to participate fully in the proceedings of the special committee on the same footing as its members but without the right to vote or to take part in the drafting of the committee's decision.
4. The special committee shall so organize its own procedures as to ensure that each party has the opportunity to be heard and to present its case. It shall also decide how the costs and expenses are to be apportioned between the parties to the dispute, failing agreement by the parties on this matter.
5. The special committee shall give its decision within five months of the date of appointment of its members, unless it decides that it is necessary to extend the time-limit for a further period which shall not exceed three months.
6. In reaching its decisions, the special committee shall comply with these articles and with the rules of general international law and any special agreements reached between the parties to the dispute with a view to settling the dispute.
7. The decisions of the special committee shall be adopted by a majority vote.

Article 21

The decisions of the special committee shall be binding on the parties concerned.

The greatest possible consideration shall be paid to any recommendations accompanying these decisions.

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Article 16

The organization shall supervise the execution of its decisions.

Supervision shall be based, inter alia, on the examination of statistics which States members of the organization are required to compile and make available, and of all other data obtained from them.

Article 17

1. Within the framework of an organization, its member States may decide, at the request of a coastal State, to establish in the zone of that State international fishery monitoring machinery for the purpose of reporting breaches of the regulations adopted by that State in accordance with article 10.

To this end, member States may appoint officers authorized to investigate breaches of the regulations of that State.

2. The provisions of article 12, paragraph 2, shall be applicable to breaches so established. The organization shall inform the coastal State and the flag State of the findings of any inquiries it has made. The organization shall be kept informed of the outcome of legal proceedings.

Article 18

In all parts of a region situated outside the zones in which the regulatory powers referred to in article 10 are exercised, the powers of control and prosecution shall be exercised by the flag State unless the members of the organization agree upon an international fishery monitoring régime similar to that referred to in article 17.

PART IV: INTERNATIONAL FISHERIES AUTHORITY

Article 19

The activities of the organizations may be supplemented, as necessary, by those of an international fisheries authority, either existing or to be set up,* the function of which could be:

(a) to promote the establishment of new organizations and, where a competent organization does not exist, to exercise the powers which would normally devolve upon such organizations;

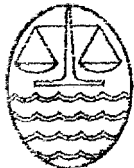
(b) to encourage all types of technical assistance in respect of fisheries.

* The authority referred to in this article might be FAO.

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UNITED NATIONS



**THIRD CONFERENCE
ON THE LAW OF THE SEA**

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A/CONF.62/C.2/L.37
5 August 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Denmark: draft article on anadromous species

The exploitation of anadromous species shall be regulated by agreement among interested States or by international arrangements through the appropriate intergovernmental fisheries organization.

All interested States shall have an equal right to participate in such arrangements and organizations. Any arrangement shall take into account the interest of the State of origin and the interests of other coastal States.

C-0896



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12 August 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Belgium, Denmark, France, Germany, Federal Republic of, Ireland, Italy,
Luxembourg, Netherlands and United Kingdom of Great Britain and Northern
Ireland: working document on the high seas

It is clear that in any comprehensive convention on the law of the sea there must be included articles setting out the rights and duties of States on the high seas. Such rights and duties are at present codified in the Geneva Convention on the High Seas 1958. It is likely that some provisions of that Convention will need some modification in the light of the conclusions reached by this Conference. However, it is the view of the co-sponsors that the principles and provisions contained in the High Seas Convention are otherwise valid, must remain in force for areas beyond the territorial sea, and should be incorporated in any new comprehensive convention on the law of the sea adopted by this Conference.

Meanwhile the co-sponsors wish to propose additions to the High Seas Convention not directly related to the other matters under discussion at this Conference. These additions are contained in the draft articles set out below.

(The numbering of these articles corresponds to that of relevant articles in the 1958 Geneva Convention on the High Seas.)

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Article 6 bis

1. Every State is obliged effectively to exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. In particular, the flag State shall, in addition to its obligations under article 10 below, take the following action in respect of ships flying its flag:

(a) maintain a register of shipping containing the names and particulars of ships flying its flag;

(b) cause each such ship, before registration and thereafter at the intervals prescribed by international regulations, to be surveyed by a qualified surveyor of ships;

(c) ensure that each such ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size and equipment of the ship;

(d) ensure that each such ship has on board adequate charts, nautical publications and navigational equipment and instruments appropriate for the safe navigation of the ship;

(e) cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State, or serious damage to shipping or installations of another State or to the marine environment;

(f) assume jurisdiction under its municipal law over each such ship and over the master, officers and crew in respect of administrative, technical and social matters concerning the ship; and

(g) take the necessary measures to ensure that the master and officers are fully conversant with and are required to observe the appropriate applicable international regulations concerning the safety of life at sea, the prevention and control of marine pollution, the prevention of collisions and the maintenance of communications by radio.

Without prejudice to paragraph 1 of this article, the requirements of this paragraph do not apply to ships or boats which are excluded from generally accepted international regulations on account of their small size.

3. The flag State, in taking measures required under paragraph 2 above shall conform to generally accepted international regulations, procedures and practices.

4. A State which has reasonable grounds to suspect that proper jurisdiction and control has not been exercised in accordance with this Convention may report the facts

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to the flag State and request it to investigate the matter further. Upon receiving such a request, the flag State shall investigate the matter, take any action necessary to remedy the situation and notify the requesting State of the action taken.

5. The flag State shall co-operate in the conduct of any inquiry held in another State into any marine casualty or incident of navigation causing loss of life or serious injury to nationals or damage to ships or other installations of that other State, or to the marine environment.

Article 10 1/

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard inter alia to:

(a) the use of signals, the maintenance of communications and the prevention of collisions;

(b) the manning of ships and labour conditions for crews taking into account the applicable international labour instruments;

(c) the construction, equipment and seaworthiness of ships.

2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

3. A State which has reasonable grounds for suspecting that such measures have not been taken may report the facts to the flag State and request it to investigate the matter further. Upon receiving such a request, the flag State shall investigate the matter, take any action necessary to remedy the situation and notify the requesting State of the action taken.

Article 21 bis

1. All States shall co-operate in the suppression of illicit traffic in narcotic drugs by ships on the high seas, contrary to international conventions.

2. Any State which has reasonable grounds for believing that a vessel is engaged in illicit traffic in narcotic drugs may, whatever the nationality of the vessel but provided that its tonnage is less than 500 tons, seize the illicit cargo. The State which carried out this seizure shall inform the State of nationality of the vessel in order that the latter State may institute proceedings against those responsible for the illicit traffic.

3. Any State which has reasonable grounds for believing that a vessel flying its flag is engaged in illicit traffic in narcotic drugs, may request the co-operation of another State to put an end to this.

1/ The close relationship between articles 6 bis and 10 might enable them to be combined at a later stage if this were considered desirable.

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Article 21 ter

1. All States shall co-operate in the repression of unauthorized broadcasting from the high seas.
2. "Unauthorized broadcasting" consists of the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to international regulations, but excluding the transmission of distress calls.
3. Any person engaged in unauthorized broadcasting from the high seas may be prosecuted before the Court of the flag State of the vessel, the place of registry of the installation, the State of which the person is a national, any place where the transmissions can be received or any State where authorized radio communication is suffering interference.
4. On the high seas, any of the States having jurisdiction in accordance with paragraph 3 above may, in conformity with article 22 below, arrest any person, or ship engaged in unauthorized broadcasting and seize the broadcasting apparatus.



UNITED NATIONS



**THIRD CONFERENCE
ON THE LAW OF THE SEA**



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A/CONF.62/C.1/L.8
16 August 1974

ORIGINAL: ENGLISH AND FRENCH

FIRST COMMITTEE

Belgium, Denmark, France, Germany, Federal Republic of, Italy,
Luxembourg, Netherlands, United Kingdom of Great Britain and
Northern Ireland: working document. Annex to the Law of the
Sea Convention: conditions of exploration and exploitation

(Circulated in accordance with the decision taken by the Committee
at its informal meeting on 16 August 1974)

In the view of the delegations co-sponsoring this working paper it is essential for conditions of exploration and exploitation to be included in any Law of the Sea Convention.

While this paper does not necessarily represent the final views of its co-sponsors, either as to substance or as to placement of the conditions, it is an illustration of the kind of conditions that would need to be included in the Convention. It is not a comprehensive and detailed set of conditions and is merely intended as an aid to the Committee's work on this subject.

I. Definition of activities

- (i) Prospecting, evaluation and exploitation in the International Sea-bed Area of the resources referred to in article VI shall be subject to the conditions set out in this annex.
- (ii) Prospecting means a general survey of a large area with a view to collecting data on the basis of which a determination can be made as to specific areas meriting evaluation. Prospecting may include all work involving geophysical and geochemical surveys and sea-bed sampling, excluding drilling deeper than 50 metres.
- (iii) Evaluation means work, following prospecting, involving the use of considerable technical and financial means in order to confirm the existence, to evaluate the consistency and to demonstrate the exploitability of the resources of a specific area.
- (iv) Exploitation means the extraction of resources for commercial and industrial purposes from a specific area.

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II. Prospecting

- (i) Prospecting shall be open in the international Sea-bed Area, other than in areas in respect of which contracts have been awarded in accordance with article III, subject to a detailed declaration being made to the Authority by the entity wishing to carry out prospecting.
- (ii) The declaration shall indicate the area in which it is planned to carry out prospecting. The declaration shall be effective for two years and may be renewed. It shall not give any exclusive right in respect of the area.
- (iii) The declaration shall cease to be effective as regards any part of the prospecting area concerned which becomes an area in respect of which a contract has been awarded.
- (iv) The entity shall inform the Authority of the results of the prospecting undertaken. The results shall be held confidential by the Authority.

III. Award of contracts

- (i) The Authority shall award contracts, in accordance with the procedure set out in paragraph (iii) below, giving an entity or group of entities the exclusive right to undertake the evaluation and exploitation (as defined in article I) of resources in a specific area.
- (ii) In the case of a group of entities, they shall designate one of them who will represent them with respect to the Authority and who will exercise powers and accept responsibility on behalf of the group.
- (iii) The Authority 1/ shall award contracts pursuant to the procedure set out below.

An application for a contract in respect of the evaluation and exploitation of a category, or categories, of resources in a specific area may be submitted to the Authority, except as regards an area in respect of which a contract has already been awarded with respect to the category, or categories, of resources referred to in the application.

The application shall include all relevant data, including results of prospecting for the resources in question in the particular area carried out by or on behalf of the applicant.

Such data contained in the application received by the Authority shall be held confidential. On receipt of the application the Authority shall award a contract provisionally to the applicant, provided the limitation specified in article IV is not exceeded. The award of such a contract shall be publicized immediately after it has been made. Provided that no competing application is received within one month after such publication the award of the contract shall become definitive.

1/ An organ of the Authority to be agreed upon.

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In the event that competing applications are received, the Authority shall reconcile such applications on the basis of the following objective criteria (to be determined). 1/

IV. Maximum number of contracts

An applicant may not hold more than six contracts at any one time in respect of each category of resources.

V. Assignment of contracts

In the case of an assignment the terms and conditions of the contract of the assignor shall continue to apply to the assignee.

VI. Categories of resources

Contracts shall be awarded for one or both of the two following categories of resources:

- (i) liquid and gaseous hydrocarbons, helium, carbon dioxide and geothermal energy.
- (ii) any mineral substance, in particular polymetallic and phosphate nodules.

VII. Size of areas

Areas, delimited by meridians and parallels according to a grid system drawn up by the Authority, shall, before the relinquishment referred to in article IX, have a maximum surface of:

- (i) 9,000 sq. kms. in the case of the resources referred to in article VI (i) and,
- (ii) 60,000 sq. kms. in the case of the resources referred to in article VI (ii) above.

VIII. Duration

- (i) Contracts shall have a duration of 30 years. They shall thereafter be renewed every 10 years if the contractor so requests, for a maximum period of 50 years.
- (ii) An area in respect of which a contract has been awarded shall be freed of any exclusive right:

1/ Proposals on this subject will be submitted by the co-sponsors in due course.

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1. at the end of the contract period or of a renewal period, if no further renewal period is requested in accordance with paragraph (i)
 2. in the event of renouncement of the whole of the area.
- (iii) Parts of an area relinquished or renounced shall likewise be freed of any exclusive right.

IX. Relinquishment and renunciation

- (i) The contractor shall relinquish one third of the area in respect of which it has been awarded a contract before beginning any exploitation.
- (ii) The contractor may at any time renounce the whole or part of the area in respect of which it has been awarded a contract.
- (iii) Relinquishment or renunciation shall be carried out on the basis of the grid system referred to in article VII.
- (iv) The Authority, within a period of three months after relinquishment or renunciation, shall publicize the areas, or parts of areas, which have been relinquished or renounced.

X. Work requirement

- (i) The applicant shall undertake:
 - to spend ... each year prior to exploitation (levels of expenditure, on a graduated scale, to be worked out)
 - to begin exploitation within a period not longer than 10 years after the award of the contract and
 - not to interrupt exploitation for more than 3 years, except in the case of force majeure, proof of which shall be submitted to the Authority.
- (ii) In the event of an infringement of the obligations provided for in paragraph (i) the Authority shall give written notice to the contractor specifying the infringement and giving the contractor a reasonable period, in any case not less than six months, to remedy the infringement. If the infringement is not remedied within the period specified then the Authority shall terminate the contract on giving six months written notice to the contractor. If the contractor challenges the ground of termination, termination shall only take place in accordance with a decision given by the tribunal established under article ... of the Convention.

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XI. Participation of nationals of countries without sea-bed exploration and exploitation capability

The applicant shall indicate in his application the steps to be taken in order to ensure the participation in the activities envisaged of nationals of countries without sea-bed exploration and exploitation capability, with a view to ensuring the training of such nationals.

XII. Non-interference with other activities

- (i) The work undertaken and safety zones established round installations and devices pursuant to article XV (ii), and in general activities exercised within the framework of this annex, shall not impede in an unjustifiable way the exercise of other lawful activities.
- (ii) If areas relating to different categories of resources totally or partially overlap, each contractor shall exercise its respective activity in such way as not to impede in an unjustifiable way the activity of any other contractor.

XIII. Regulatory arrangements

- (i) The necessary measures shall be taken to:
 - (a) protect the installations and devices referred to in article XV (i)
 - (b) enforce technical rules, particularly with a view to the maximum exploitation of resources, compliance with security measures, and protection of the environment.
- (ii) The Authority shall be notified of the measures taken in implementation of paragraph (i).
- (iii) (Questions of private law).
- (iv) The contracts awarded by the Authority shall contain provisions relating to the safety of human life, the protection of the environment and non-interference with legitimate uses of the sea.

XIV. Inspection and supervision information to be supplied to the Authority

- (i) The Authority shall be entitled to carry out inspection and supervisory measures, in accordance with the terms of the contract, in order to ensure that work is undertaken in conformity with this Convention and its annexes.
- (ii) The contractor shall place at the disposal of the Authority any information concerning resources it has collected during work carried out in an area.

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XV. Installations and devices and safety zones

(i) For the purpose of this annex "installations and devices" means:

- (a) platforms and other fixed devices, as well as their attachments
- (b) ships, marine installations and floating devices and
- (c) underwater habitats and vehicles, either floating, standing on, or moving over, the sea-bed

which are used for the purposes of evaluation or exploitation.

(ii) A "safety zone" shall be established around the installations and devices referred to in paragraph (i) (a), up to a distance of 1,000 metres measured horizontally from each point of the external limit of such installations and devices.

XVI. Marking of installations and devices and publicity to be given to nautical information

- (i) Marine marking of installations and devices and safety zones shall be established and maintained, in conformity with international rules.
- (ii) Appropriate publicity shall be given to nautical information relating to evaluation and exploitation.

* * *

Financial arrangements

To be determined.

Settlement of disputes

To be determined.

* * *



UNITED NATIONS



**THIRD CONFERENCE
ON THE LAW OF THE SEA**

THIRD COMMITTEE



Distr.
LIMITED

A/CONF.62/C.3/L.19
23 August 1974

ORIGINAL: ENGLISH

Austria, Belgium, Bolivia, Botswana, Denmark, Germany, Federal
Republic of, Laos, Lesotho, Liberia, Luxembourg, Nepal,
Netherlands, Paraguay, Singapore, Uganda, Upper Volta and Zambia:
draft articles on marine scientific research

Note: These draft articles do not necessarily represent the final position of the sponsors on individual articles or on the draft as a whole. Sponsorship does not prejudice their position on previous or future draft proposals.

Article 1

"Marine scientific research" means any study of and related experimental work in the marine environment, excluding industrial exploration and other activities aimed directly at the exploitation of marine resources, designed to increase man's knowledge and conducted for peaceful purposes.

Article 2

All States, whether coastal or land-locked, as well as appropriate international organizations, have the right to conduct marine scientific research subject to the provisions of this Convention.

Article 3

Marine scientific research shall be conducted with due regard to other legitimate uses of the sea and it shall not be subject to undue interference caused by such other uses.

Article 4

Marine scientific research shall be conducted in conformity with those provisions of this Convention and other rules of international law concerning the preservation of the marine environment.

Article 5

Marine scientific research within the territorial sea established in accordance with this Convention may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and answered without undue delay.

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C-1813

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English

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Article 6

1. Marine scientific research beyond the territorial sea, in areas where a coastal State enjoys certain rights over resources in accordance with this Convention, shall be conducted by States as well as by appropriate international organizations in such a manner that these rights of coastal States are respected, for which purpose the coastal State shall:

- (a) be given at least ... months' advance notification of the proposed research project;
- (b) be given as soon as possible a detailed description of the research project, including objectives, methods and instrumentation, locations and time schedule, and information on the research institution concerned and on the scientific staff to be employed;
- (c) be promptly informed of any major changes with regard to the description of the proposed research project;
- (d) have the right to participate directly or indirectly in the research project;
- (e) have access to all data and samples obtained in the course of the research project and be provided, at its request, with duplicable data and divisible samples;
- (f) be given assistance, at its request, in the interpretation of the results of the research project.

2. States and appropriate international organizations conducting marine scientific research in the areas referred to in paragraph 1 above shall take due account of the legitimate interests and rights of the neighbouring land-locked and other geographically disadvantaged States of the region, as provided for in this Convention, and shall notify these States of the proposed research project, as well as provide, at their request, relevant information and assistance as specified in paragraph 1 (b), (c) and (f) above. Such neighbouring land-locked and other geographically disadvantaged States shall be offered, at their request, where research facilities permit, the opportunity to participate in the proposed research project.

3. States and appropriate international organizations engaged in the conduct of marine scientific research shall ensure that the research results are published as soon as possible in readily available scientific publications and that copies of such publications are supplied directly to the coastal State and to neighbouring land-locked and other geographically disadvantaged States.

4. Deep drilling or the use of explosives for the purpose of marine scientific research likely to affect the sea-bed or its subsoil may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and answered without undue delay.

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5. Disputes concerning the interpretation or application of this article shall, at the request of any party to such dispute, be settled in accordance with the procedures set out in the relevant articles of this Convention.

Article 7

Marine scientific research beyond the areas specified in articles 5 and 6 above may be carried out by all States, whether coastal or land-locked, and by appropriate international organizations.

Article 8

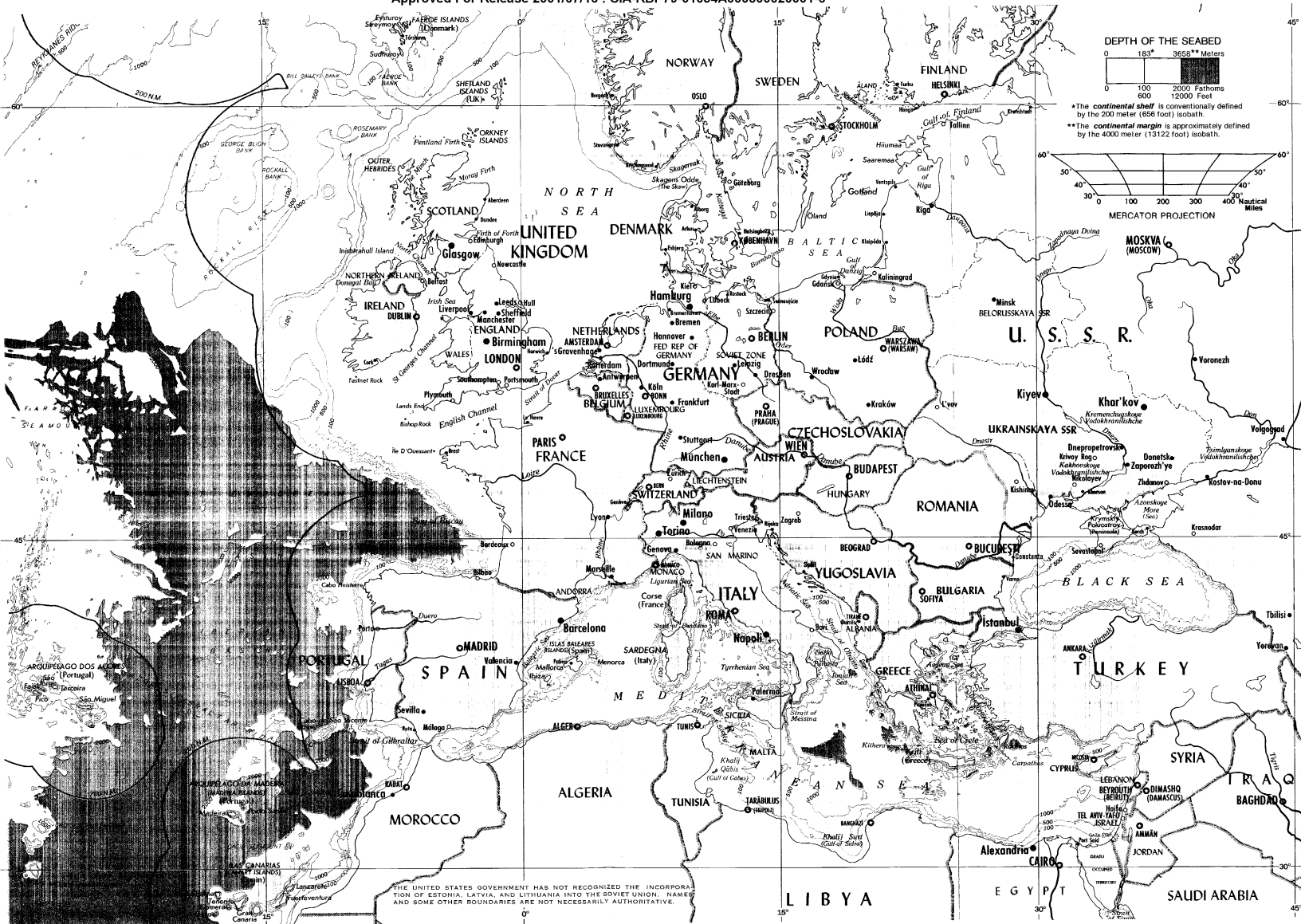
1. States shall, on the basis of mutual respect for sovereignty and mutual benefit, promote international co-operation in marine scientific research.

2. States shall co-operate with one another through the conclusion of bilateral and multilateral agreements to ensure favourable conditions for the conduct of marine scientific research for peaceful purposes, the removal of obstacles to such research and the co-ordination of efforts by scientists in studying the phenomena and processes occurring in the marine environment.

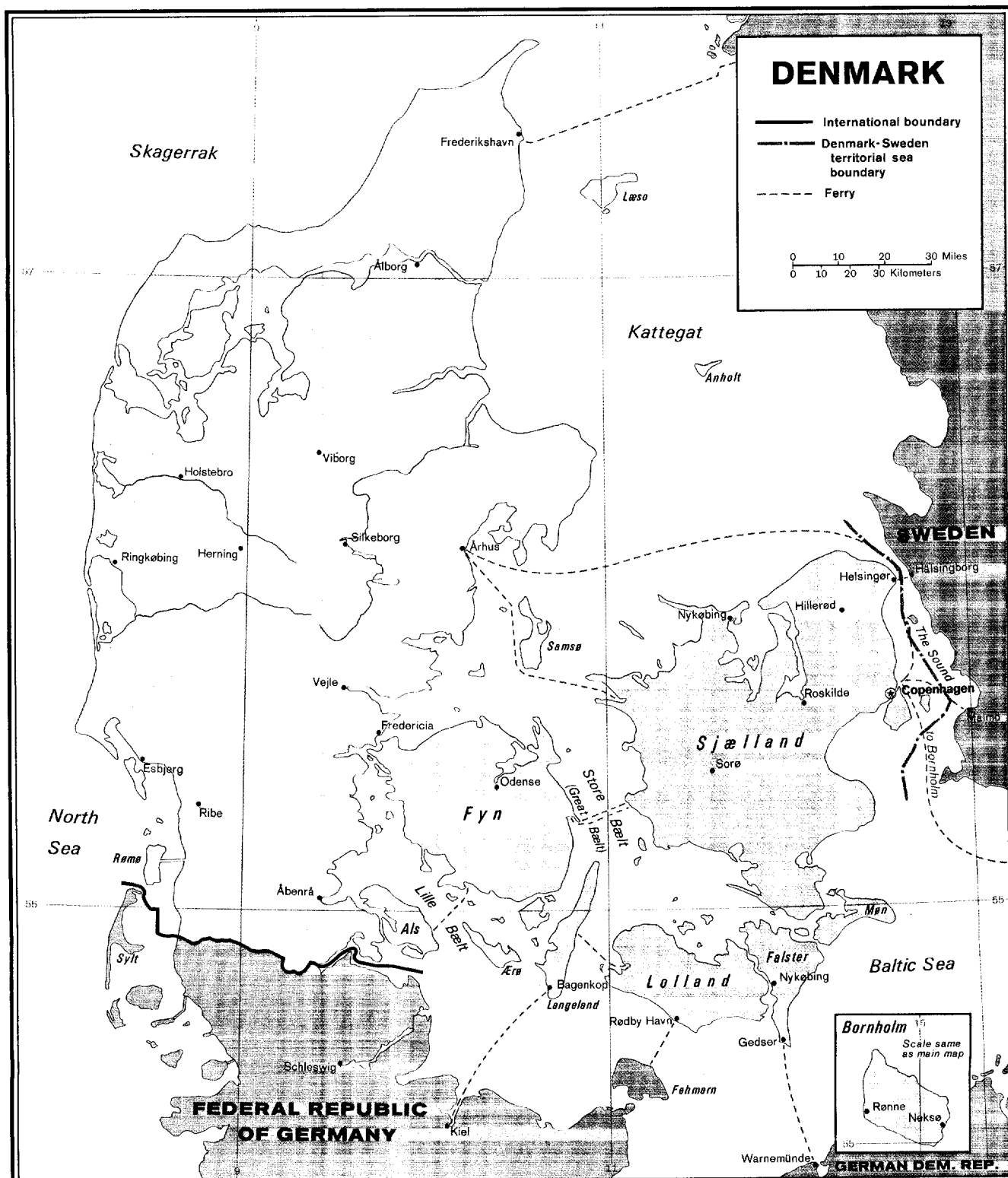
3. States shall individually and in co-operation with other States and with appropriate international organizations actively promote the flow of scientific data and information, the transfer of experience gained from marine scientific research to developing and land-locked countries and the strengthening of the independent marine scientific research capabilities of developing countries, particularly land-locked among them, by such means as programmes to provide adequate training of their technical and scientific personnel.

4. States shall facilitate the availability of information and knowledge resulting from marine scientific research by effective international communication of proposed major programmes and their objectives, and by publication and dissemination through international channels of their results.

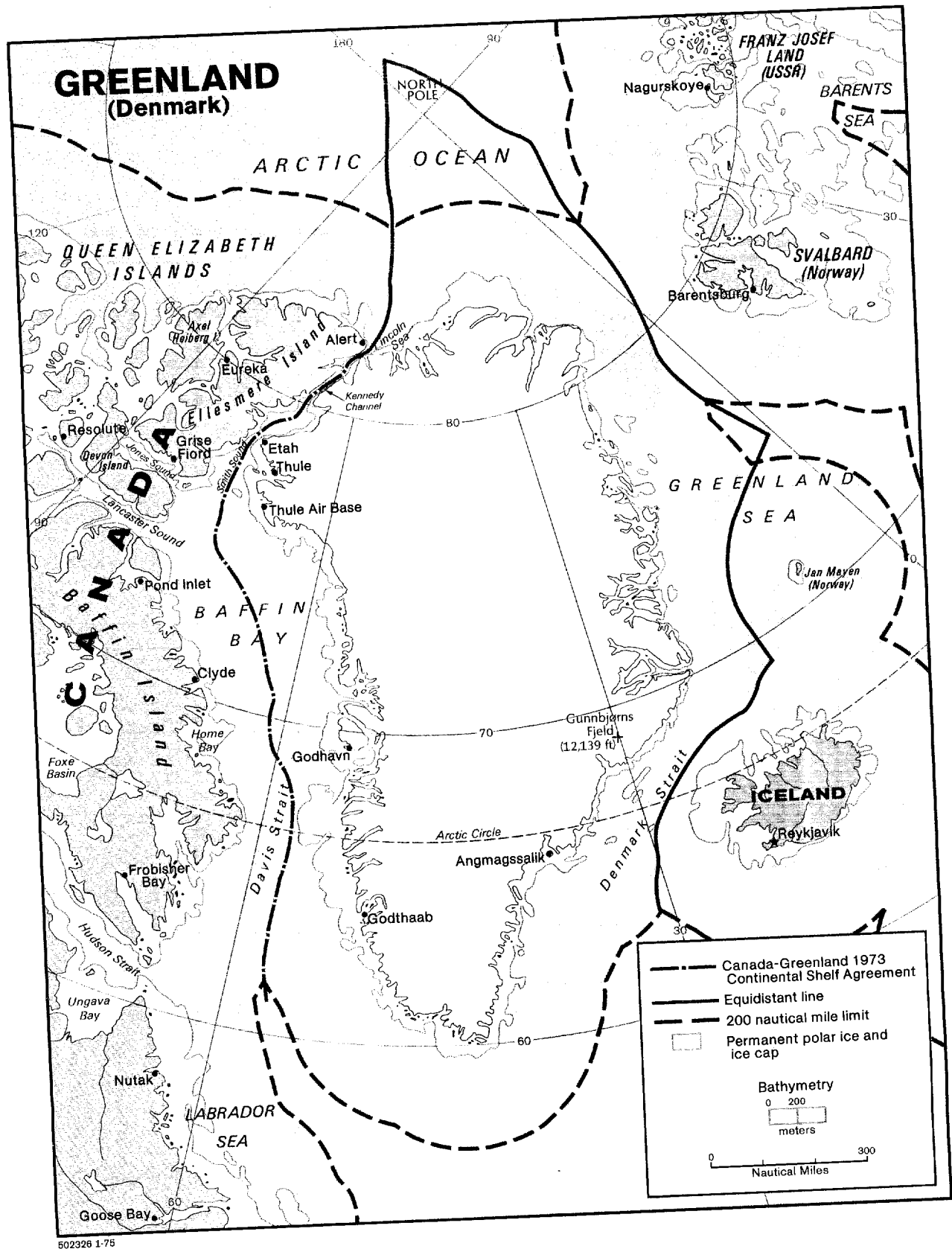
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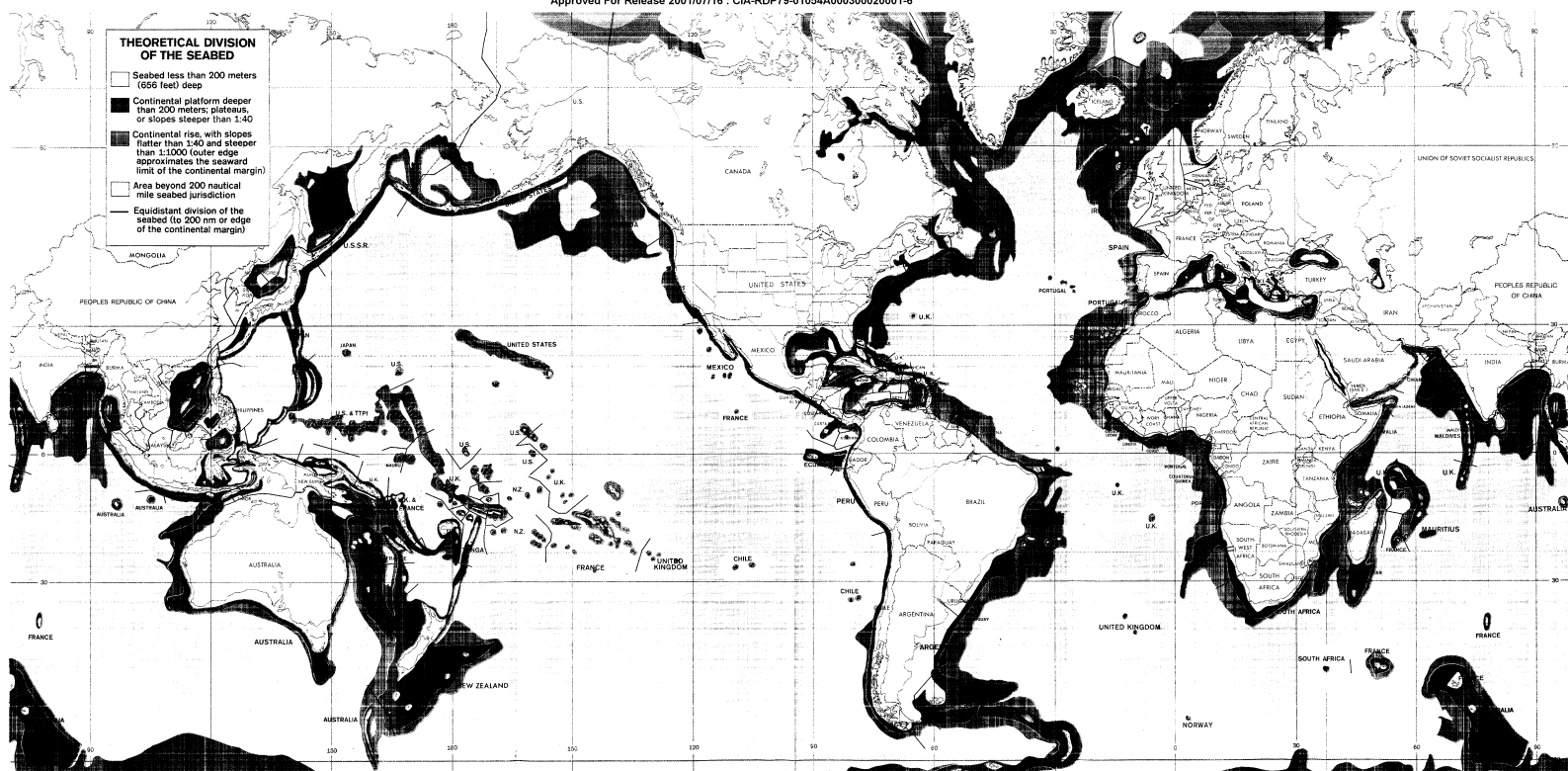


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